

**Bureau of Alcohol, Tobacco and Firearms, Treasury**

**§ 194.51**

**§ 194.33 Sales of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer.**

(a) *Special tax liability.* Special tax liability will be incurred with respect to the sale, or offering for sale, of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer, unless such compounds, preparations, or mixtures are unfit for use for beverage purposes and are sold solely for use for nonbeverage purposes.

(b) *Products unfit for beverage use.* Products meeting the requirements for exemption from qualification under the provisions of §19.58 of this chapter shall be deemed to be unfit for beverage purposes for the purposes of this part.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-379, 61 FR 31426, June 20, 1996]

**§ 194.34 Sales by agencies and instrumentalities of the United States.**

Unless specifically exempt by statute, any agency or instrumentality of the United States, including post exchanges, ship's stores, ship's service stores, and commissaries, or any canteen, club, mess, or similar organization operated under regulations of any such agency or instrumentality, which sells, or offers for sale, distilled spirits, wines, or beer shall pay special tax as a dealer in liquors or as a dealer in beer, as the case may be, for carrying on such business.

(72 Stat. 1340, 1343, 1347; 26 U.S.C. 5111, 5121, 5143)

**§ 194.35 Warehouse receipts covering spirits.**

Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every person who sells or offers for sale warehouse receipts for spirits held or stored in a distilled spirits plant, customs bonded warehouse, or elsewhere, is required to file a special tax return and pay special tax as a wholesale dealer in liquors, or as a retail dealer in liquors, as the case may be, at the place where such warehouse receipts are sold, or offered for

sale, unless exempt by the provisions of subpart L, of this part.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

**Subpart D—Administrative Provisions**

**§ 194.41 Forms prescribed.**

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(5 U.S.C. 552(a); 80 Stat. 383, as amended)

[T.D. ATF-92, 46 FR 46916, Sept. 23, 1981, as amended by T.D. ATF-249, 52 FR 5962, Feb. 27, 1987; T.D. 372, 61 FR 20725, May 8, 1996]

**§ 194.42 Right of entry and examination.**

Any ATF officer may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer under this part and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(72 Stat. 1348; 26 U.S.C. 5146)

**Subpart E—Places Subject to Special Tax**

**§ 194.51 Special tax liability incurred at each place of business.**

Except as provided in §§194.31 and 194.181 through 194.193, liability to special tax is incurred at each and every place where distilled spirits, wines, or beer are sold or offered for sale: *Provided*, That the term "place" as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not

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be deemed sufficient separation to require the payment of addition special tax, if the various divisions are otherwise contiguous.

(72 Stat. 1347; 26 U.S.C. 5143)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 194.52 Place of sale.

The place at which ownership of liquors is transferred, actually or constructively, is the place of sale.

(72 Stat. 1347; 26 U.S.C. 5143)

### § 194.53 Place of offering for sale.

Liquors are offered for sale (a) at the place where they are kept for sale and where a sale may be effected, or (b) at any place where sales are consummated. Liquors are not offered for sale by sending abroad an agent to take orders, or by establishing an office for the mere purpose of taking orders, provided in each case the orders received are transmitted to the principal for acceptance at the place where he holds a special tax stamp or is exempt from special tax as provided in subpart L of this part.

(72 Stat. 1347; 26 U.S.C. 5143)

### § 194.54 Places of storage; deliveries therefrom.

Special tax is not required to be paid for warehouses and similar places which are used by dealers merely for the storage of liquors and are not places where orders for liquors are accepted. Where orders for liquors are received and duly accepted at a place where the dealer holds the required special tax stamp, the subsequent actual delivery of the liquors from a place of storage does not require the payment of special tax at such place of storage. Except as provided in §§194.185 and 194.186, a dealer holding a special tax stamp at a given place, who makes actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp, shall pay special tax at the place where ownership of the liquors is transferred.

(72 Stat. 1340, 1347; 26 U.S.C. 5113, 5143)

## 27 CFR Ch. I (4–1–02 Edition)

### § 194.55 Caterers.

(a) *General.* Where a contract to furnish liquors is made by a caterer at his place of business where he holds a special tax stamp, no liability to special tax is incurred by the serving of the liquors at a different location.

(b) *Additional liability.* Where the contract of a caterer provides for the sale of liquors by the drink at a place, or simultaneously at different places, other than his place of business where he holds a special tax stamp, a separate liability to special tax is incurred at each such place.

(c) *Records.* Caterers must maintain sufficient commercial records to verify that their special (occupational) tax liabilities have been satisfied for all locations at which activities subject to special (occupational) tax occur. These commercial records should indicate the names and addresses of locations at which alcoholic beverages have been sold or offered for sale and the dates and times that such activities occurred. These commercial records must be available to ATF officers upon request.

(26 U.S.C. 5121, 5122, 5143, 5555, 6806, 7011)

[T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-329, 57 FR 39598, Sept. 1, 1992]

### § 194.56 Peddling.

No person shall peddle distilled spirits, wines, or beer, except as provided in §§194.126, 194.185, and 194.186. Persons peddling liquors and not meeting the exemptions specified in §§194.126, 194.185, and 194.186 are required to pay special tax at each place where sales are consummated.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

#### SALES IN TWO OR MORE AREAS ON THE SAME PREMISES

### § 194.57 General.

Where liquors are sold by a proprietor in two or more areas within his place of business, only one special tax stamp is required. Where the proprietor lets to another person or persons the privilege of selling liquors in two or more areas within his place of business, whether such privilege is exercised separately or simultaneously with the